

REMARKS

Responsive to the final Office Action mailed October 1, 2008 and with an extension of time of ONE MONTH, the present Submission under 37 C.F.R. § 1,114(c) is timely filed contemporaneously with a Request for Continuing Examination on or before February 2, 2009, the first day after February 1, 2009 that is not a Saturday, Sunday, or holiday in the District of Columbia.

By the present paper, claims 19 and 26 - 29 are cancelled, claims 15, 20, and 21 are amended, and new claims 30 - 35 are presented. Accordingly, claims 15 - 18, 20 - 27, and 30-35 are in the Application.

Entry of the Request for Continuing Examination and the claim amendments, together with reconsideration of the Application, are respectfully requested.

The Claim Amendments:

Claim 15 is further amended to eliminate the allegedly offending limitation to pH and to limit the metal oxides to oxides of iron. Support for this amendment can be found in the specification at, for example, page 8, lines 1 -5.

Other claims are amended as required by amendment of claim 15 or cancellation of claims 19 and 27.

A typographical error in claim 20 is corrected.

Applicants respectfully submit that the claim amendments do not introduce new matter into the Application.

The New Claims:

New claims 30 - 32 depend from product-by-process claim 15 and add further limitations to the process step of "subjecting to high pressure

homogenization". Applicants respectfully submit that support for the new claims 30 and 31 can be found, for example, in the examples.

New claim 33 depends from claims 15, 30, 31, and 31 and limits the pressure of the high pressure homogenization step to 500 - 1200 bar. Support for the amendment can be found, for example, at page 8, line 12.

New claim 34 depends from claim 15 and introduces the limitation that the particles are made at $\text{ph} > 7$ from iron-oxide generated *in situ*. Support for the amendment can be found in claim 27, now cancelled.

New claim 35 depends from claim 34 and adds the limitation that the aqueous medium comprises aqueous ammonium hydroxide. Support for new claim 35 can be found in the specification at, for example, page 8, line 15.

Applicants respectfully submit that the new claims do not introduce new matter into the Application.

Non-Statutory Double Patenting:

Claims 15 - 29 were provisionally rejected as allegedly obvious over the claims of co-pending United States Patent Application 10/888,189. Because neither the claims of the present Application nor the claims of the '189 Application have been finally determined Applicants respectfully defer filing a Terminal Disclaimer until other rejection have been resolved.

Conclusion:

Based on the foregoing amendments and remarks, Applicants respectfully submit that the claims are now in condition for allowance, which allowance is earnestly solicited.